

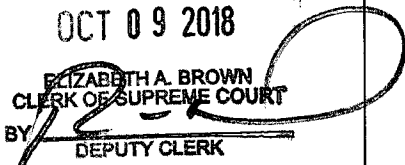
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

THE STATE OF NEVADA,  
Appellant,  
vs.  
CARLOS DOMINGUEZ-CORTEZ,  
Respondent.

No. 72907

FILED

OCT 09 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting a motion to suppress evidence of a prior misdemeanor conviction. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

On May 3, 2017, respondent filed a motion to dismiss this appeal for lack of jurisdiction on the basis that the motion filed below, although titled a motion to suppress, was actually a motion in limine to exclude evidence. The Nevada Supreme Court denied respondent's motion, concluding the motion filed below sought to suppress rather than exclude evidence. *See State v. Dominguez-Cortez*, Docket No. 72907 (Order Denying Motion and Directing Filing of Points and Authorities, July 7, 2017). This appeal was transferred to this court for resolution on June 14, 2018.

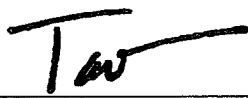
Having reviewed the record in this appeal, we conclude the Nevada Supreme Court should have granted the motion to dismiss. Despite its title, the district court's order did not grant a motion to suppress because the district court did not exclude the evidence on the basis the evidence was illegally obtained. *See State v. Shade*, 110 Nev. 57, 63, 867 P.2d 393, 396 (1994) ("Motion to suppress" is a term of art which is defined as a request for the exclusion of evidence premised upon an allegation that the evidence

was illegally obtained.”). No statute or court rule provides for an appeal from an order granting a motion seeking to exclude evidence of a prior misdemeanor conviction. *See State v. Second Judicial Dist. Court (Kephart)*, 134 Nev. \_\_\_, \_\_\_, 421 P.3d 803, 805 (2018) (The Nevada Supreme Court exercised its discretion to grant extraordinary relief because district court erred by ruling Kephart’s prior convictions could not be used to enhance a domestic battery charge to a felony and the State had no other adequate remedy at law for challenging the district court’s ruling.); *State v. Kephart*, Docket No. 72481 (Order Dismissing Appeal, June 6, 2017) (concluding the court lacked jurisdiction and dismissing appeal from district court order granting a motion to exclude two prior convictions for felony enhancement purposes). Accordingly, we conclude we lack jurisdiction to consider this appeal, *see Castillo v. State*, 106 Nev. 349, 352, 792 P.2d 1133, 1135 (1990) (Where no statute or court rule provides for an appeal, no right to appeal exists.), and we

ORDER this appeal DISMISSED.

 C.J.

Silver

 J.

Tao

 J.

Gibbons

cc: Hon. Michelle Leavitt, District Judge  
Attorney General/Carson City  
Clark County District Attorney  
Law Offices of John G. Watkins  
Eighth District Court Clerk